NO. 1042337

**THE SUPREME COURT**
**OF THE STATE OF WASHINGTON**

JAMIE LLOYD WALLIN
Appellant,

v.

WASHINGTON STATE DEPARTMENT OF CORRECTIONS,

Respondent.

# DEPARTMENT OF CORRECTIONS' ANSWER TO MOTION FOR DISCRETIONARY REVIEW

Treated as Answer to Petition for Review

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## I. INTRODUCTION

The Department of Corrections (Department or DOC) filed a counterclaim alleging that Jamie Wallin's Public Records Act (PRA) requests constituted harassment and met the criteria for an injunction under a specific provision of the PRA applicable to inmates, RCW 42.56.565. After discovery revealed extensive evidence that Wallin had engaged in a decade-long campaign of harassment against the Department and other agencies for profit, the Department amended its counterclaim to add these factual allegations. And when Wallin repeatedly flouted court rules and ignored court orders to appear for a deposition, the trial court carefully considered and then entered a default judgment against him. The Court of Appeals correctly affirmed this result.

Wallin has not met the standards for discretionary review. The Court of Appeals' decision was well reasoned and correctly applied precedent. It is not in conflict with any Supreme Court or Court of Appeals' precedent. And the well-established

authority of a trial court to enter default judgment against a truculent party who refuses to follow valid court orders is not a significant question of law under the Constitution of the State of Washington or of the United States. Finally, there is no substantial public interest in permitting Wallin to flout Court rules and to abuse the PRA for profit. Therefore, this Court should deny review.

## II. RESTATEMENT OF THE CASE

### A. Procedural Background

Wallin filed this lawsuit against the Department alleging violations of the PRA. CP 1. Wallin alleged that the Department had improperly failed to disclose rejection notices from an email-like system operated by a third party under contract with the Department. CP 2-8. He also alleged the Department had improperly redacted a Postal Service account number from documents produced to him. CP 5-6.

At the time, the Department contracted with a private corporation called JPay, Inc. to provide email-like services to

incarcerated individuals. CP 163. Incarcerated individuals could send JPay emessages through kiosks located in the Department's facilities. CP 164. All incarcerated individuals were required to agree to the JPay Kiosk Terms of Service and Warranty Policy before being permitted to use JPay services, including emessaging services. CP 164. Those terms of service state that all JPay correspondence is subject to monitoring, recording, interception, and disclosure. CP 164, 166-67.

The Department submitted an Amended Answer and Counterclaim. In this counterclaim, the Department alleged that Wallin's requests were for records he already possessed, and which could be used in a crime, triggering application of RCW 42.56.565, the prisoner PRA injunction statute. CP 21-24. The Department also alleged that Wallin solicited persons outside of prison to send him sexually explicit emessages through JPay in order to have them rejected and to receive rejection notices, which he then could request in public records requests for the purpose of harassing the Department. CP 22,

787. For instance, on October 7, 2020, Wallin ordered images of "completely bare" photos of women. CP 783. He made similar requests on September 17, 2020. CP 785. Wallin moved to dismiss the counterclaim, but that motion was denied. CP 48-56, 182.

Seeking discovery on its counterclaim against Wallin, the Department issued a subpoena to the General Counsel of JPay, seeking, "[a]ll JPay emessage communications sent or received by Jamie Lloyd Wallin, DOC #729164, from January 1, 2020, until present." CP 146-47. Wallin moved to quash the Subpoena. CP 111-15. In his motion, Wallin stated, "[t]he subpoena to the General Counsel of JPay, Inc. seeks to permit inspection and copying of private emessages between Mr. Wallin and his family and friends protected under article I, section 7 of the Washington Constitution, the Washington Privacy Act, chapter 9.73 RCW, and the common law." CP 112-13. Superior Court Judge Dixon denied Wallin's Motion to Quash. CP 181. Thereafter, the

Department moved for leave to depose Wallin. CP 58-59. Judge Dixon granted the Department's Motion in July 2022. CP 69-70.

After discovering that his JPay emessages revealed additional motives for Wallin's harassing behavior and a ten year pattern of PRA litigation abuse, the Department moved for leave to file a Second Amended Answer and Counterclaim to allege newly discovered facts demonstrating that Wallin had a profit motive for making public records requests and filing related lawsuits under the PRA. CP 298-300. The trial court granted the Department's motion and denied Wallin's subsequent motion for reconsideration, in which he argued that the Department's counterclaim did not "relate back" to the original complaint. CP 303-12, 328, 341-49. The court rejected Wallin's arguments, finding that that the Department's amended factual allegations did not constitute a new counterclaim and, even if they did, would relate back to its original counterclaim. CP 401-03.

After a period of written discovery and after the Court granted the Department's motion for leave to depose Wallin, the Department issued a notice of deposition seeking to depose him remotely (via Zoom) at the end of March 2023. CP 536-37. Wallin responded by serving the Department with "Plaintiff's Objection to Notice of Deposition Via Zoom," claiming that he would only submit to a deposition by telephone, not Zoom. CP 501. He also claimed that he should not be compelled to answer questions about his motives for making public records requests. CP 502. These arguments were not considered by the court because Wallin failed to properly note a hearing. CP 504.

Wallin also moved for a protective order, again arguing that the subpoena for JPay was invalid and he should not be deposed. CP 413. The court denied the motion, reiterating that it had already considered Wallin's privacy arguments and his objections to being deposed and denied them. CP 505-506.

Wallin failed to attend his deposition on March 27, 2023. CP 555. The Department moved for a default judgment based on

this failure. CP 509-24. After hearing oral argument on Defendant's motion for default, the trial court found that Wallin's refusal to attend his deposition was willful and deliberate given that the trial court had granted Defendant leave to depose Plaintiff in July 2022 and had denied two Motions for a Protective Order by Wallin attempting to prevent the deposition. CP 630. The trial court also found that Wallin's failure to attend his deposition substantially prejudiced the Department in preparing its motion for injunctive relief and proving its counterclaims. CP 631.

The trial court specifically considered whether a lesser sanction than the default requested by the Department would be appropriate. CP 631 (citing *Burnet v. Spokane Ambulance*, 131 Wn.2d 484, 494–97, 933 P.2d 1036, 1040–42 (1997)). The Court concluded a lesser sanction was appropriate and ordered Wallin to attend his deposition upon oral examination in person at the Washington State Penitentiary in Walla Walla, Washington. CP 631.

After the hearing concluded, the Department had a Notice of Deposition personally served on Wallin. CP 600-02. A few days before the deposition, Wallin informed prison staff in writing that he refused to attend his second scheduled deposition. CP 605. Counsel then attempted to schedule a meeting with Wallin to discuss his refusal to attend but he refused to attend that meeting. CP 608-09, 615. Because Wallin refused to meet to discuss his attendance at his deposition, the Department determined that further efforts to secure the deposition would be futile and cancelled the court reporter to save costs. CP 597. The Department then moved again for a default judgment. CP 579. The trial court entered a default judgment on May 5, 2023. CP 642-644.

**B. Wallin's Ten-year Campaign of Harassment for Profit**

After the Superior Court entered the default judgment, it requested briefing and evidence on the Department's proposed permanent injunction. CP 644. The Department submitted

briefing and evidence it obtained despite Wallin's refusal to cooperate with discovery. CP 753-66.

Among other evidence, the Department submitted Wallin's own emessages demonstrating that he was engaged in a scheme of making public records requests to the Department and other public agencies for documents he already possesses or for records whose status is unclear under the law to set agencies up for lawsuits. CP 648-49. He would then sue these agencies, including the Department, with the intent of making a profit at taxpayer expense. CP 649. The trial court found this conduct amounts to harassment of these agencies, including the Department. CP 649.

In addition to the JPay rejection notices Wallin requested in this matter, his previous public records requests and lawsuits were considered by the trial court as evidence of Wallin's abuse of the PRA. CP 649-50. For example, in March of 2020, Wallin filed a lawsuit against the Department, in part, based on the Department's response to public records request

wherein he sought "All Sex Offender Treatment Program (SOTP) records for persons who participated in SOTP, as well as the SOTP Aftercare Program, at the Washington Corrections Center for Women (WCCW), from the period of January 1, 2003 through December 31, 2017." *Wallin v. Washington Dep't of Corr.*, 28 Wn. App. 2d 1009, *2 (2023) (unpublished).

In another example, Wallin filed a lawsuit in 2018 against the City of Everett over its response to his public records request for, among other items, seized video recordings, FBI surveillance videos, color photographs, and any printed screen shots of security surveillance videos and FBI surveillance videos related to the Everett Police Department's investigation of coffee stands that were staffed by scantily clad women and girls. CP 311.

Wallin also made statements demonstrating his profit motive in his numerous messages to family members. In an emessage to his sister, for example, Wallin said, "My litigation

is what allows me to help our family financially, especially grandma." CP 777 (Emphasis added). He wrote another emessage to his sister asking for her to help with finding an administrative assistant stating, "[b]ecause I engage in civil litigation, it requires certain needs I can only accomplish using a third party. *Without meeting those litigation needs, I cannot obtain the financial resources to help grandma…That means no more funds coming in*." CP 779 (Emphasis added). He continued, "[w]ithout an assistant, my ability to help others ends. So that's how important it is. *I want to be able to continue to financially secure* grandma." CP 779 (Emphasis added).

In another JPay emessage, Wallin acknowledged that he had been filing PRA litigation for ten years:

> *I have been involved in the public records arena (which includes litigation) for ten years.* To further my endeavors and streamline my efforts, I hired a civil attorney from Spokane two and a half years ago. He provided me the legal administrative services I needed, which included his receipt of the records I requested from the various public agencies, and forwarding those for my review…

CP 781 (Emphasis added). Similarly, in a JPay emessage to his friend dated May 15, 2020 Wallin stated:

> The only remaining dispute about the videos is the format the records should be produced in. So I will address that further with the court. But I am proud of myself. It is the second novel decision (meaning only one to do so in the country) I have secured *in my nine years of litigating.* Wait do you hear that?? I hear a horn tooting… LOL

CP 800 (Emphasis added).

JPay emessages demonstrate that Wallin was eventually able to obtain the assistance of his aunt and uncle in his PRA request and litigation activities. CP 792, 794, 796. He drew up a contract to govern this business relationship. CP 798. In an emessage to his friend, Wallin states, "[t]oday I finished the final version of a contract for my new Administrative Assistant. Last weekend I finished a custom accounting sheet so it will be easy for her to keep track of her time, mileage, and expenses." CP 798. Thus, Wallin even employed outside assistants to help with his PRA profit-making scheme.

The trial court entered an injunction based on this evidence of Wallin's multi-year scheme. It held, "[a]n inmate harasses an agency for purposes of RCW 42.56.565(2)(c)(i) when they make, burdensome requests for the purposes of financial gain." CP 650. The Court of Appeals then affirmed the trial court's disposition of this case.

## III. REASONS WHY REVIEW SHOULD BE DENIED

### A. Review Should be Denied Because this Case Does Not Meet the Criteria for Discretionary Review

The criteria for accepting a petition for discretionary review are set forth in Rules of Appellate Procedure (RAP) 13.4(b). It provides:

> A petition for review will be accepted by the Supreme Court only: (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

In his Petition, Wallin offers no persuasive argument or legal authority justifying this Court's acceptance of his Petition for Discretionary Review. Having failed to meet his burden under RAP 13.4(b), Wallin's Petition for Discretionary Review should be denied.

### 1. The Court of Appeals correctly held that an incarcerated PRA requestor may be questioned about his motives in a deposition when there is a counterclaim made under RCW 42.56.565.

Wallin claims that his decision to deliberately refuse to follow a court order that he sit for his deposition should be excused by this Court because he believes RCW 42.56.080 does not permit him to be deposed about his motives for making records requests. Petition for Review at 15-18. But, contrary to Wallin's contention, RCW 42.56.080 contains no blanket prohibition on inquiry into a requestor's motives. Rather, RCW 42.56.080(2) states, in the relevant part:

> Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection

> and copying would violate RCW 42.56.070(8) or 42.56.240(14), *or other statute which exempts or prohibits disclosure of specific information or records to certain persons*.

(Emphasis added).

Accordingly, the Court of Appeals correctly found that the general prohibition on inquiring into a requestor's motives does not apply when a statute "exempts or prohibits disclosure of specific information or records to certain persons." Opinion at 14.

Additionally, several other PRA provisions authorize inquiry into the requestor's motives. Specifically, RCW 42.56.565(2) states that PRA requestors serving criminal sentences may be enjoined from inspecting or copying public records under certain circumstances. So, RCW 42.56.565 qualifies for the exception identified in RCW 42.56.080(2). Furthermore, RCW 42.56.565(3) specifically states that one of the factors a trial court may consider in deciding whether to issue an injunction are statements made by the requestor "concerning

the purpose for the request." Thus, contrary to Wallin's assertions, the Court of Appeals committed no error.

**2. The Court of Appeals correctly found the Subpoena for JPay records was valid because Wallin had no legitimate expectation of privacy in his prison monitored communications.**

Wallin claims that the subpoena requesting prison-monitored communications between Wallin and his family and friends was invalid and violated his Constitutional right to privacy. Petition at 18-19. But, as the Court of Appeals correctly noted, "communications with inmates are not private matters entitled to protection under article I, section 7." Opinion at 15 (citing *State v. Mohamed*, 195 Wn. App. 161, 166, 380 P.3d 603 (2016)). Thus, the Court of Appeals decision was consistent with other Court of Appeals' authority. And as explained by the Court of Appeals, Wallin's JPay communications were subject to several conditions he agreed to when he chose to use the service, including monitoring by the Department. Opinion at 15; CP 164,

166-67. Thus, he had no reasonable expectation of privacy in his communications and the subpoena for his JPay records was valid.

### 3. The Court of Appeals correctly applied precedent in affirming default judgment.

It is well established that imposition of a default judgment is one of the sanctions that a court may impose for failure to comply with a discovery order. *Snedigar v. Hoddersen*, 114 Wn.2d 153, 169, 786 P.2d 781, 788 (1990). As explained by this Court, the remedy for a party's failure to comply with discovery lies within the trial court's sound discretion. *Id.* In exercising discretion, courts impose the sanction of a default judgment only where there has been a willful or deliberate refusal to obey a discovery order which substantially prejudices the opponent's ability to prepare for trial. *Id.*

To enable a meaningful review of discovery sanctions imposed by a trial court, this Court has established several factors that trial courts must specifically consider, and such consideration must be apparent from the record. *Burnet*,

131 Wn.2d at 494–97. Specifically, it must be apparent from the record: (1) whether a lesser sanction would probably have sufficed; (2) whether the trial court found that the disobedient party's refusal to obey a discovery order was willful or deliberate; and (3) whether the trial court found that the disobedient party's refusal substantially prejudiced the opponent's ability to prepare for trial. *Id.* at 494. All of these factors were clearly addressed on the record in this case. CP 726-729. Wallin refused to show up to two different noticed depositions. The trial court's lesser sanction clearly was not enough to ensure Wallin's appearance. The trial court did not err in concluding Wallin's second refusal was disobedient and substantially prejudiced the Department from proving its counterclaim. Therefore, the trial court appropriately exercised its discretion in defaulting Wallin and the Court of Appeals correctly affirmed that decision.

### 4. The trial court's injunction was not overly broad.

Wallin claims that the injunction is too broad because it states, "[a]ll persons who are aware of this order, have been served with this order, or otherwise provided notice of this order, and who violate or assist or participate in the violation of this order may be subject to contempt." Opening Brief, at 4. But, as noted by the Court of Appeals, this order follows the established legal rule that "in appropriate circumstances, a trial court may find a nonparty in contempt of court when the person has actual knowledge of the court order." Opinion at 18 (citing *Stella Sales, Inc. v. Johnson*, 97 Wn. App. 11, 21, 985 P.2d 391, 398 (1999)). Accordingly, the Court of Appeals correctly applied precedent to affirm the scope of the injunction here.

### 5. The decision of the Court of Appeals is not in conflict with a published decision of the Court of Appeals.

The Court of Appeals' opinion is wholly consistent with *Dep't of Corr. v. McKee*, 199 Wn. App. 635, 649, 399 P.3d 1187, 1195 (2017), which held that an inmate's request for public

records may be enjoined under RCW 42.56.565(2)(c)(i) if the requests are burdensome and made for financial gain.

Similarly, while Wallin cites to a number of authorities to support his contentions, upon examination, those cases are all distinguishable. For instance, he claims that *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 137, 580 P.2d 246, 254 (1978)), supports his contention that the prisoners defending against a counterclaim under RCW 42.56.565 may not be questioned about their motives for making records requests. Petition at 16. But *Hearst* involved a newspaper seeking public records and does not address when prisoners are the requestor or RCW 42.56.565 at all. In fact, it predates enactment of RCW 42.56.565.

Similarly, Wallin cites to *In re Request of Rosier*, 105 Wn.2d 606, 614–15, 717 P.2d 1353, 1359 (1986), which also predates enactment of RCW 42.56.565. It does not involve RCW 42.56.565 or prisoners. And far from stating that an agency

may never inquire into motives, it recognizes an exception for certain law enforcement requests. *Id.*

Likewise, while another case cited by Wallin, *Livingston v. Cedeno*, 164 Wn.2d 46, 53–54, 186 P.3d 1055, 1058 (2008), does involve a prisoner's unsuccessful claim that the PRA prevents requested records from being restricted in prisons for security reasons, it also predates enactment of RCW 42.56.565 and it does not address the statutory basis of the Court of Appeals' opinion here.

More recent cases cited by Wallin also lack support for his contentions. In *Cornu-Labat v. Hosp. Dist. No. 2 Grant Cnty.*, 177 Wn.2d 221, 225–26, 298 P.3d 741, 743–44 (2013), the issue was a PRA request made by a physician to a public hospital. It did not analyze prisoners or RCW 42.56.565 at all. Likewise, *Kittitas Cnty. v. Allphin*, 190 Wn.2d 691, 719, 416 P.3d 1232, 1247 (2018), as amended (June 18, 2018) does not involve prisoners or RCW 42.56.565 and the page Wallin cites to in it is part of a dissenting opinion.

In addition, *City of Lakewood v. Koenig*, 160 Wn. App. 883, 893–94, 250 P.3d 113, 119 (2011), which was cited by Wallin does not involve prisoners or RCW 42.56.565 and it speaks about motives in that case being irrelevant. *Id.* at 894. This case is distinguishable because motives are relevant under RCW 42.56.565. Another case, *Hood v. Columbia Cnty.*, 21 Wn. App. 2d 245, 255–56, 505 P.3d 554, 559 (2022), supports the Department's position. It distinguishes the claims in that case, which involved a non-incarcerated requestor from those of prisoners, where the legislature expressly made "it more difficult for incarcerated PRA litigants to obtain penalty awards." *Id.* at 255. Finally, *Doe 1 v. Seattle Police Dep't*, which was cited by Wallin, is about the identities of police officers who attended a demonstration in Washinton D.C. being released. *Doe 1 v. Seattle Police Dep't*, 27 Wn. App. 2d 295, 305, 531 P.3d 821, 827, *rev'd sub nom. Does 1, 2, 4 , & 5 v. Seattle Police Dep't*, 4 Wn.3d 343, 563 P.3d 1037 (2025). It does not involve RCW 42.56.565 at all.

Wallin has failed to identify how the Court of Appeals' decision in this case is in any way inconsistent with cases addressing RCW 42.56.565.

### 6. There is no significant question of law under the Constitution of the State of Washington or of the United States is involved in this case.

As noted above, it is well established that imposition of a default judgment is one of the sanctions that a court may impose for failure to comply with a discovery order. *Snedigar*, 114 Wn.2d at 169. Likewise, there is no significant Constitutional issue at stake regarding whether Wallin had a constitutional privacy interest in prison monitored communications. The Court of Appeals correctly held that he had no legitimate expectation of privacy, citing *Mohamed*, 195 Wn. App. at 166. Thus, the issues presented here by Wallin are not novel or significant questions that need to be decided by the Supreme Court.

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### 7. This petition does not involve an issue of substantial public interest that should be determined by the Supreme Court.

The public has no interest in enabling Wallin to make a profit at taxpayer expense through the PRA and it has no interest in permitting Wallin to ignore court orders and court rules. Thus, no issues of substantial public interest are present here. This case does not meet the requirements for discretionary review.

## IV. CONCLUSION

Wallin has engaged in a ten-year campaign to use the PRA to harass multiple agencies, including the Department. The injunction issued in this case is appropriate given the severity of his conduct. Further, Wallin's Petition does not meet the criteria for discretionary review. He has not shown that the decision of the Court of Appeals is in conflict with a decision of the Supreme Court or a published decision of the Court of Appeals. He has not shown that a significant question of law under the Constitution of the State of Washington or of the United States is involved. And Wallin has not shown his Petition involves an issue of

substantial public interest that should be determined by the Supreme Court. Therefore, the Department respectfully request this Court deny Wallins' Petition for Discretionary Review.

This document contains 3,996 words, excluding the parts of the document exempted from the word count by RAP 18.17.

RESPECTFULLY SUBMITTED this 21st day of July, 2025.

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## CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed the foregoing BREIF OF RESPONDENT DEPARTMENT OF CORRECTIONS with the Clerk of the Court using the electronic filing system and I hereby certify that I have mailed by United States Postal Service the document to the following non electronic filing participant:

JAMIE LLOYD WALLIN, DOC #729164
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I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED this 21st day of July, 2025, at Olympia, WA.

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